

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

UNITED STATES OF AMERICA, §
§
Plaintiff, § CASE NO. 1:10-cv-186
v. § (Lead Case)
17.924 ACRES OF LAND, MORE OR LESS, §
SITUATE IN CAMERON COUNTY, §
TEXAS; AND UNITED STATES OF §
AMERICA AS SUCCESSOR IN INTEREST §
TO CAMERON COUNTY IRRIGATION §
DISTRICT NO. 2, ET AL., §
§
Defendants. §

**UNITED STATES OF AMERICA'S UNOPPOSED MOTION
TO SEVER TRACT RGV-HRL-4086**

On August 17, 2010, the United States of America (hereinafter "United States") filed its Declaration of Taking (Docket No. 3) in the above styled cause to clear title issues in 17.924 acres of land identified as RGV-HRL-4080 and acquired by the United States for purposes of the border fence project. On November 26, 2013, the United States filed its Agreed Motion to Consolidate (Docket No. 38) for the purpose of 1) identifying the actual owners of the condemned tracts and the yet to be filed tracts in Section O-14 based on the results of title examinations; 2) properly identifying the ownership boundaries of the actual owners based on surveys and metes and bounds descriptions; and 3) severing the tracts from the consolidated case based on ownership boundaries in order to resolve title issues, just compensation and close the Section O-14 cases on the Court's docket. On December 4, 2013, this Court filed its Order Granting Agreed Motion to Consolidate (Docket No. 39) consolidating Civil Action Nos. 1:08-cv-492, 1:08-cv-321, 1:08-cv-467, 1:08-cv-368, 1:08-cv-349, 1:08-cv-342, 1:08-cv-298, 1:08-cv-

386, 1:08-cv-210, 1:08-cv-319, 1:08-cv-320, 1:08-cv-333, 1:08-cv-211, 1:08-cv-416, 1:08-cv-491, 1:08-cv-345, 1:08-cv-322, 1:08-cv-366, 1:09-cv-005, 1:08-cv-465 into 1:10-cv-186.

Title examinations and surveys have now been completed for the tracts within the above styled consolidated case and the United States is now ready to sever out specific tracts based on ownership boundaries in order to resolve title issues, just compensation and close the specific tracts on the Court's docket.

The United States hereby states it is necessary to do the following:

- a. Sever into a separate proceeding, with a new civil number, 2.119 acres of land, hereinafter identified as Tract RGV-HRL-4086, from the description of the land acquired in Tract RGV-HRL-4080;
- b. Sever the estate being taken for Tract RGV-HRL-4086;
- c. Provide the estimated just compensation for Tract RGV-HRL-4086; and
- d. Clarify as defendants all parties interested in Tract RGV-HRL-4086 who were identified in title examination results received after institution of this proceeding.

The proposed Amended Declaration of Taking to be filed in the new civil case number is attached as Exhibit 1 and includes a metes and bounds description, survey, the estate taken, and a schedule of parties identified as having an interest in Tract RGV-HRL-4086.

[remainder of page intentionally left blank]

WHEREFORE, the United States requests that the Court grant this motion to sever thereby severing a 2.119 acre tract of land identified as Tract RGV-HRL-4086 and described in Amended Declaration of Taking attached as Exhibit 1 into a new case number.

Respectfully Submitted,

ABE MARTINEZ
Acting United States Attorney
Southern District of Texas

JOHN A. SMITH
Assistant United States Attorney
State Bar No. 18627450
Federal ID No. 8638
One Shoreline Plaza
800 North Shoreline, Suite 500
Corpus Christi, Texas 78401
Telephone: (361) 888-3111
Facsimile: (361) 888-3234

And

E. PAXTON WARNER
Assistant United States Attorney
Southern District of Texas No. 555957
Texas Bar No. 24003139
600 E. Harrison, Suite 201
Brownsville, TX 78520
Telephone: (956) 548-2554
Facsimile: (956) 548-2711
E-mail: Paxton.Warner@usdoj.gov

And

s/ Richard A. Kincheloe
RICHARD A. KINCHELOE
Assistant United States Attorney
United States Attorney's Office
Southern District of Texas
Texas Bar No. 24068107
S.D. Tex. ID No. 1132346
1000 Louisiana St., Suite 2300
Houston, Texas 77002
Telephone: (713) 567-9422

Facsimile: (713) 718-3033
E-mail: Richard.Kincheloe@usdoj.gov

Certificate of Service

I, Richard A. Kincheloe, Assistant United States Attorney for the Southern District of Texas, do hereby certify that on March 27, 2017, I mailed a true and correct copy of the foregoing document via regular mail to the all parties remaining in this case.

By: *s/ Richard A. Kincheloe*
RICHARD A. KINCHELOE
Assistant United States Attorney

Certificate of Conference

The undersigned certifies that he conferred with interested parties as follows:

- (a) With the Kathryn G. Withey Trust and the Cameron County Tax Assessor-Collector by letter on March 20, 2017. As of the time this Motion is filed, the Tax Assessor-Collector has not responded. Gwen Shannon indicated by phone call on March 24, 2017, that the trustee was not opposed to severance;
- (b) With counsel for the following parties on July 7, 2016: (1) Robert Duncan, (2) L&W Limited Partnership, (3) C&J Farm Holdings, (4) Benito Garcia, (5) Carl, Marie, and Chris Bauer, (6) Frances Quinones & the Frances W. Quinones Living Trust, (7) Garcias Partnership, and (8) Robert Jaime. Counsel indicated that they were not opposed to the severance of any tract from Case No. 1:10-cv-186 to which his client was not a party in interest;
- (c) With counsel for San Benito Cameron County Drainage District No. 3 on July 14, 2016, who indicated that he was not opposed to the severance of any tract from Case No. 1:10-cv-186 to which his client was not a party in interest;
- (d) Called Valerie Garcia, counsel for Adan Garcia, on July 19, 2016, to confer about this Motion, but as of the time of the filing of this Motion, Valerie Garcia has not indicated whether she is opposed or unopposed; and
- (e) By letters sent to the parties on the attached service list by hand delivery and/or first-class U.S. mail, postage prepaid, on or about July 12-18. No party on the attached service list indicated opposition to the severance of any tract from Case No. 1:10-cv-186 to which they were not a party in interest.

By: *s/ Richard A. Kincheloe*
RICHARD A. KINCHELOE
Assistant United States Attorney